UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/81
4 March 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 21

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report of the Working group on its ninth session

Chairman-Rapporteur: Mr. Jan Helgesen (Norway)

CONTENTS

		Paragraphs	Page
Introduction		1 - 2	3
I.	ORGANIZATION OF THE SESSION	3 - 14	3
A.	Opening and duration of the session	3	3
B.	Election of the Chairman-Rapporteur	4	3
C.	Participation	5 - 8	3
D.	Documentation	9	4
E.	Organization of work	10 - 14	4
II.	CONSIDERATION OF THE DRAFT OPTIONAL PROTOCOL	15 - 342	5
A.	Chapter I	25 - 92	6
B.	Chapter II	93 - 143	14
C.	Chapter III	144 - 185	20
D.	Chapter IV	186 - 258	24
E.	Chapter V	259 - 342	34

CONTENTS (continued)

Page

ANNEXES

I. First reading text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms as amended in the course of the second reading at the ninth session of the Working Group 47

II. Compilation of second reading proposals presented during the ninth session of the Working Group 56

Introduction

1. The Commission on Human Rights, by decision 1985/112 of 14 March 1985, established an open-ended working group to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms. This decision was approved by the Economic and Social Council in its decision 1985/152 of 30 May 1985. The Working Group held its first to eighth sessions prior to the forty-second to forty-ninth sessions, respectively, of the Commission on Human Rights, its reports to the Commission being contained in documents E/CN.4/1986/40, E/CN.4/1987/38, E/CN.4/1988/26, E/CN.4/1989/45, E/CN.4/1990/47, E/CN.4/1991/57, E/CN.4/1992/53 and Corr.1, and E/CN.4/1993/64.

2. The Commission, in its resolution 1993/92 of 10 March 1993, decided to continue at its fiftieth session its work on the elaboration of the draft declaration. The Economic and Social Council, in its resolution 1993/47, authorized the open-ended working group to meet for a period of two weeks prior to the fiftieth session of the Commission on Human Rights with a view to continuing the work on the draft declaration.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The ninth session of the Working Group was opened by the Assistant Secretary-General for Human Rights, who made a statement. During the session the Working Group held 18 meetings from 17 to 28 January and on 1 March 1994.

B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 17 January 1994, the Working Group elected Mr. Jan Helgesen (Norway) Chairman-Rapporteur.

C. Participation

5. The representatives of the following States members of the Commission attended the meetings of the Working Group, which were open to all members of the Commission: Australia, Austria, Bulgaria, Brazil, Cameroon, Canada, Chile, China, Colombia, Cuba, France, Germany, India, Indonesia, Iran (Islamic Republic of), Japan, Libyan Arab Jamahiriya, Malaysia, Mexico, Netherlands, Peru, Poland, Romania, Russian Federation, Syrian Arab Republic, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

6. The following States, non-members of the Commission, were represented by observers: Algeria, Argentina, Czech Republic, Denmark, Egypt, El Salvador, Ethiopia, Greece, Latvia, Morocco, Norway, Philippines, Senegal, Slovakia, Sweden, Switzerland, Turkey.

7. The League of Arab States was represented by an observer.

8. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers at the meetings: Amnesty International, Baha'i International Community, International Association of Penal Law, International Commission of Jurists, International Service for Human Rights, World Student Christian Federation.

D. Documentation

9. The Working Group had before it the following documents:

E/CN.4/1994/WG.6/L.1	Provisional agenda
E/CN.4/1994/WG.6/1	Report of the Secretary-General prepared pursuant to paragraph 3 of Commission resolution 1993/92: Comments on the first reading text
E/CN.4/1993/64	Report of the Working Group on its eighth session
E/CN.4/1994/88 and Corr.1	Letter dated 22 June 1993 addressed to the Secretary-General of the United Nations by Mr. Jaap A. Walkate, Chairman of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture

E. Organization of work

10. The Working Group adopted its agenda, as contained in document E/CN.4/1994/WG.6/L.1, at its 1st meeting, on 17 January 1994.

11. At the same meeting, at the invitation of the Chairman-Rapporteur, the delegations expressed their views on the issues relating to the organization of the work of the session.

12. The representative of the United States of America proposed that the discussions of the Working Group should concentrate initially on the second reading of operative paragraphs and that effective use should be made of informal consultations. The representatives of Canada, Austria, Cameroon, and Chile and the observer for Greece, as well as the observer for the International Commission of Jurists, expressed their support for this proposal and shared the view that, for reasons of efficiency, the Group should start its work from the operative part of the draft declaration.

13. The representative of China subsequently expressed the opinion that it would be expedient to begin the second reading of the draft declaration by considering the preambular paragraphs rather than the operative part. He felt that the preamble not merely introduced the operative part of the declaration but, more importantly, offered those concepts and ideas that guide the interpretation of the operative paragraphs. For the purpose of achieving a consensus, however, the representative of China did not insist on this approach. The representatives of Cuba and the Syrian Arab Republic shared the concern of the Chinese delegation.

14. The Working Group subsequently decided to begin the second reading of the draft declaration by considering first its operative part. The Chairman-Rapporteur stressed that this modality of organizing the work of the Group was adopted solely for technical purposes, and should not be taken to imply any ordering of the relative importance of the preambular and operative parts of the declaration. The Chairman, furthermore, proposed to begin the consideration of the operative part with chapter I, article 1, having stressed that this would not preclude the possibility of changes in the order of the draft articles.

II. CONSIDERATION OF THE DRAFT OPTIONAL PROTOCOL

15. Upon the Chairman's invitation, and before starting consideration of article 1, some delegations expressed their general views on the operative part of the draft declaration.

16. The representative of the Syrian Arab Republic drew the attention of the Working Group to some inconsistencies which, in the view of his delegation, existed in several parts of the draft declaration. He pointed out that the phrase "in association with others" has no legal status and is ambiguous. He, furthermore, felt the need to use one agreed upon expression rather than using the two phrases "individually or in association with others" and "individuals, groups and organs of society" interchangeably.

17. In this connection, the representative of Tunisia referred to the technical review of the first reading text, prepared by the secretariat last year (E/CN.4/1993/WG.6/1), in which various inconsistencies in the text were already dealt with.

18. The representatives of the United Kingdom and of the United States of America also stressed the importance of achieving a consistent text although, in the opinion of the United Kingdom delegation, the Working Group should not move from the use of the phrase "individually or in association with others", which corresponds to well-established concepts in fundamental human rights instruments.

19. The representative of the United States of America added that any attempt at making the language of the declaration consistent should be systematic and that such phrases as "universally recognized" should be used only where they contribute to a clear understanding of the text.

20. The representative of the United Kingdom noted that the chapter headings did not appear to be necessary since the text of the draft declaration was rather short.

21. The representative of the Syrian Arab Republic felt that the use of chapter headings could be continued for the time being for the purpose of convenience. He was also of the opinion that reference should be made to the concept of "universally recognized human rights and fundamental freedoms" as contained in the Vienna Declaration and Programme of Action and in international human rights instruments.

22. The representative of Chile expressed the condolences of his delegation to the Chair at the passing away of the Norwegian Minister for Foreign Affairs, Mr. Johan Jorgen Holst. At his proposal, a minute of silence was observed in homage to his memory.

23. The Working Group subsequently agreed to convene an informal drafting group in order to speed up the drafting process. The informal drafting group, headed by the Chairman, met in the afternoon of 17 and on 18 January.

24. In the course of its ninth session, the Working Group considered all articles of the operative part of the declaration and it eventually adopted, at second reading, the text of the old article 1 of chapter I, articles 1, 4 and 5 of chapter II, article 2 of chapter III, articles 1, 3 and 4 of chapter IV and articles 1, 2, 3 and 4 of chapter V. The Working Group agreed to delete the chapter headings which, for ease of reference, will be kept in the text until all the articles are renumbered. Due to lack of time consideration of the preamble was postponed to the next session.

A. Chapter I

Chapter I, article 1

25. At the 2nd meeting, on 19 January 1994, the Chairman-Rapporteur introduced document E/CN.4/1994/WG.6/CRP.1 containing his proposals for chapter I, article 1, of the first reading text based on the discussions held in the informal drafting group. The proposal read as follows:

> "No one shall participate, by act or omission, in violating the human rights and fundamental freedoms, and no one shall be subject to punishment or adverse action of any kind for refusing to do so."

26. The representative of the Syrian Arab Republic referred to the problem of the placing of articles in chapter I and expressed some doubts as to whether the present article 1 should become the first article of this chapter. Another problem yet to be resolved was that relating to the concepts of "universally recognized" and "individually or in association with others".

27. The Chairman-Rapporteur noted that many delegations had expressed the wish that those concepts in chapter I and elsewhere should be the object of a functional approach made on a case-by-case basis. As regards "[universally recognized]" in article 1 of chapter I, the Chairman felt that the informal drafting group was oriented towards deleting that expression.

28. The representatives of the United Kingdom of Great Britain and Northern Ireland and Australia proposed that the word "the" before "human rights" in CRP.1 should be deleted because, grammatically, it was incorrect. The Working Group subsequently agreed with this proposal.

29. Following a discussion on the meaning of the word "omission", contained in CRP.1, the representative of the United States of America proposed replacing this word with the expression "failure to act where required". This proposal was agreed to by the Working Group.

30. The observer for the International Commission of Jurists felt that the wording "Punishment or adverse action", could be interpreted to include punishment by omission. The representative of Australia suggested that the word "action" could be replaced by "measures".

31. The Working Group then adopted the text of CRP.1 as amended by the representatives of the United States of America and the United Kingdom. The text as adopted read as follows:

> "No one shall participate, by act or failure to act where required, in violating human rights and fundamental freedoms, and no one shall be subject to punishment or adverse action of any kind for refusing to do so."

32. Following the adoption of the article, the representative of the United Kingdom made the following statement on its interpretation of the adopted article:

> "It is States which are subject to human rights obligations under international law, and hence can violate human rights and fundamental freedoms. Accordingly, the delegation of the United Kingdom understands that insofar as chapter I, article 1, refers to individuals it relates to individuals acting for or on behalf of the authorities of the State."

The representatives of the United States of America and the Russian Federation associated themselves with the observations made by the delegation of the United Kingdom.

33. The observer for the International Commission of Jurists also endorsed the interpretation expressed by the representative of the United Kingdom with respect to the rights of individuals and the duties of States under international human rights law.

34. The representative of Chile stated that only States and their agents violated human rights and that, consequently, it understood chapter I, article 1, to refer to persons acting on behalf of or for the State.

35. Upon the request of the representative of Mexico, the Chairman-Rapporteur explained that the texts of the articles adopted during the second reading had to be considered as final, unless the Working Group decides by consensus to reopen the discussion of the text.

36. The representative of Cameroon stated that the absence of translated texts complicated the work of those delegations which did not use English as a working language. The Chairman-Rapporteur explained that he also regretted this inconvenience which, however, was inevitable in such a drafting process.

37. At the same meeting, the Group adopted the order of the articles of chapter I as follows: former article 3 would replace article 1, which would become new article 3. Article 2 would remain where it was.

Chapter I, articles 2 and 3

38. At the 2nd meeting, on 19 January 1994, the Working Group began its consideration of articles 2 and 3 of chapter I, as contained in the first reading text.

39. The representative of the United States of America and the observer for Greece expressed their support for the Chairman-Rapporteur's idea to discuss the expressions "[universally recognized]" and "individually and/or in association with others" on an article-by-article basis.

40. In the discussion regarding the expression "individually and in association with others", the representatives of Australia, Canada, United Kingdom, the United States of America and the observer for the International Commission of Jurists argued for the maintenance of this expression which, in their view, was a product of lengthy negotiations and already reached compromises, while the representatives of Cameroon and the Syrian Arab Republic and the observers for Algeria, Egypt and Morocco were in favour of replacing "individually and/or in association with others" with the wording fully reflecting the mandate of the Working Group which is also the title of the draft declaration.

41. The representative of Cameroon noted in this connection that the text of the draft declaration should be in conformity with its title; otherwise, the mandate of the Working Group should be changed.

42. The observer for Greece, having expressed the preference of her delegation for a case-by-case approach with regard to this issue, stated that it was ready to accept the use of the title of the draft declaration in article 3 because it would subsequently become article 1. This, however, should not establish any precedent for other articles. This view was also shared by the representative of Mexico.

43. The representative of the Russian Federation was in favour of using some uniform expression throughout the text of the draft declaration.

44. The representative of Canada stated that the expression "individually and in association with others" included all groups, organs of society, etc. and therefore it could meet all the concerns expressed.

45. Subsequently, the Working Group moved to the consideration of the expression "[universally recognized]". The Chairman-Rapporteur proposed to delete "[universally recognized]" in articles 2 and 3 of chapter I. The representatives of Australia, Canada and the United States of America agreed with the Chairman-Rapporteur's proposal, while the representative of the United Kingdom proposed to add after the words "human rights and fundamental freedoms", the expression "the universal nature of which is beyond question", which contained the language of paragraph 1 of the Vienna Declaration.

46. Several other delegations also drew the attention of the Working Group to some provisions of the Vienna Declaration and Programme of Action. The representative of Mexico referred to the expression "as contained in international human rights instruments", included in Part II, paragraph 76, of

the Vienna Declaration and Programme of Action and which, in her view, could be used in article 3 of chapter I. The representative of the Syrian Arab Republic supported this idea and put it forward as a formal proposal. The representative of the Russian Federation also agreed with the proposal.

47. The representative of Romania drew the attention of the Working Group to part I, paragraph 34, of the Vienna Declaration, which spoke of "universal human rights and fundamental freedoms".

48. The observer delegation of Greece referred to part I, paragraph 5 of the Vienna Declaration which stated that "All human rights are universal, indivisible and interdependent and interrelated".

Chapter I, article 2

49. At the 3rd meeting, on 19 January 1994, the Working Group considered the text of article 2 of old chapter I.

50. The Chairman-Rapporteur proposed to delete "universally recognized" and to replace "all persons, individually and in association with others" with the word "everyone".

51. The representatives of China and the Syrian Arab Republic stated that they were in a position to adopt the proposal if a reference to "economic" conditions was included.

52. The representative of Romania suggested to replace "social and political conditions" with the expression "political and socio-economic conditions".

53. The representative of the United States proposed to use instead only the words "the conditions". The representative of Canada and the observer for the International Commission of Jurists supported the proposal on the grounds that it would accommodate any existing concerns with respect to the nature of the conditions required to be created.

54. The representative of the Russian Federation suggested the wording "to create all necessary conditions".

55. The representative of Australia and the observers for Greece and the International Commission of Jurists considered that the wording "social and political conditions" was wide enough to encompass economic conditions.

56. At its 8th meeting, on 24 February 1994, the Working Group continued its consideration of article 2 of chapter I, as contained in the first reading text.

57. The Chairman-Rapporteur recalled that the only remaining problem in this article was a reference to "economic conditions", the insertion of which had been proposed earlier by the representatives of China and the Syrian Arab Republic.

58. The representative of China further proposed to replace the words "the social and political conditions" by the words "all the conditions".

59. In the discussion that followed, several other delegations put forward proposals containing alternative wording. The representative of Austria suggested that the words "the basic conditions" could instead be used. The observer for Greece proposed the use of the formula "those conditions and legal guarantees which are required". The representative of the Russian Federation favoured a more neutral term like "necessary conditions". The representative of the United States found acceptable the last proposal of China.

60. The representative of Cuba made three proposals relating to article 2 as follows: (1) to add, after the words "to promote and protect", the following: "and to ensure the full achievement of all"; (2) to replace the words "the social and political conditions" by "all the necessary conditions", and (3) to add the word "all" before "these rights and freedoms in practice". In explaining the reasons for his proposals, the representative of Cuba referred to the Vienna Declaration which, in his view, put strong emphasis on the full achievement of all human rights.

61. The representative of Mexico proposed to use the formula "...and other steps to create the necessary conditions and legal guarantees...".

62. The representatives of Canada and the United Kingdom expressed their preference for the original wording, i.e. "other steps as may be necessary...".

63. The Chairman-Rapporteur felt that the compromise text could refer to "all the conditions and legal guarantees required to ensure that everyone is able to enjoy all these rights and freedoms in practice".

64. The representative of the United Kingdom stated that he could not accept the last proposal of Cuba and suggested instead to replace the words "to enjoy these rights and freedoms in practice" by "to enjoy them in practice".

65. The representative of the Russian Federation was of the opinion that the proposals by Cuba added nothing new to the text as already agreed upon. The representative of the United States stated that the prolonged discussion had led the Working Group far away from the essence of the original text of this article. The observer for Sweden was also of the opinion that there had been too many proposals on the table and suggested returning to the proposal of the Chairman-Rapporteur.

66. The representative of Cuba insisted on his proposal relating to the insertion of the word "all". On this basis the Chairman-Rapporteur had to recognize the absence of a consensus. The consideration of article 2 of chapter I was therefore suspended.

67. At the 16th meeting, on 28 January 1994, the Working Group resumed its consideration of article 2 of chapter I. The Chairman-Rapporteur recalled his earlier proposals to delete "[universally recognized]"; to replace the expression "the social and political conditions" by the words "all the conditions", and to replace the expression "all persons, individually and in association with others" by the word "everyone".

68. The representative of Cuba stated again that it insisted on the use of the expression "all human rights and fundamental freedoms" as contained in the Vienna Declaration. The Chairman-Rapporteur felt that there was no need for the Working Group to transfer in its draft declaration all the language of the Vienna Declaration, accordingly the Working Group could not reach a consensus with regard to article 2 of chapter I.

Chapter I, article 3

69. At the 3rd meeting, on 19 January 1994, the Working Group continued its discussion of the concepts of "universally recognized" human rights and "individually and in association with others", as contained in the first reading text of article 3 of chapter I. The delegation of the United States reformulated an earlier proposal by the Syrian Arab Republic to read as follows:

> "...to strive for the protection and realization of human rights and fundamental freedoms as contained in international human rights instruments at the national and international levels".

The Working Group agreed with this formula to be used in the first sentence of article 3 on the understanding that there was no need to repeat this formula again in other articles.

70. With regard to the second sentence of article 3, the representative of China suggested to put it in a separate article. This proposal was supported by the representative of the United States. The observer for Greece proposed to place it at the end of the declaration. The Working Group did not reach agreement on the wording and placement of the second sentence.

71. With regard to the expression "individually and in association with others", the Chairman-Rapporteur noted that many delegations were not happy with the formula used in the mandate of the Working Group, especially with the words "organs of society", whereas some other delegations did not share the concept of "individually and in association with others". He therefore proposed to replace it with the provision contained in paragraph 3 of article 5 of chapter V so that the beginning of article 3 would read: "Individuals, groups, institutions and non-governmental organizations have the right...".

72. The representative of the United Kingdom did not agree with this proposal and pointed out that this article should not be interpreted as conferring rights on groups.

73. The representative of the United States felt that in the text proposed by the Chairman the expression "shall be free" could be used instead of "have the right".

74. The representative of Australia and the observer for the International Commission of Jurists indicated that they were not against the concept of group rights but they felt that any reference to group rights in that context was not appropriate. The Chairman stated that the provision of this article in no way related to the issue of group rights under international law.

75. The representative of the United States of America further proposed the following formula: "Everyone, whether individually or in groups, institutions or non-governmental organizations, has the right...".

76. The representatives of Australia, China and the Russian Federation welcomed this proposal.

77. The representative of the Syrian Arab Republic stated that he would not agree with any proposal which would deny to groups and organs of society the role which they could play in the promotion and protection of human rights.

78. The representatives of Canada and the United Kingdom and the observers for Greece and the International Commission of Jurists preferred to maintain the wording "individually and in association with others" in the text of the first sentence of article 3.

79. The Chairman-Rapporteur concluded that the Working Group was not able to reach a consensus on this issue and suspended the discussion.

80. At its 8th meeting, on 24 January 1994, the Working Group resumed its consideration of article 3 of chapter I, as contained in the first reading text.

81. The Chairman-Rapporteur recalled that, according to an earlier agreement, this text should, in principle, be split into two separate articles. He also reminded the Working Group of an earlier compromise proposal by the delegation of the United States to insert the words "as contained in international human rights instruments" after "human rights and fundamental freedoms" in the first sentence of article 3. He also recalled the proposal of the Syrian Arab Republic to repeat in this article the wording of the Working Group's mandate, and the competing proposal of the United States to use instead the formula "Everyone, whether individually or in groups, institutions or in non-governmental organizations, has the right ...".

82. The representative of the Syrian Arab Republic stressed that the Working Group should not stray too far from the mandate given to it by the Commission on Human Rights and the Economic and Social Council. He proposed to replace the first sentence of article 3 by the following text:

> "Individuals and groups as well as organs of society have the right and responsibility (duty) to promote and protect human rights and fundamental freedoms as contained in international human rights instruments."

The representative of the Syrian Arab Republic also felt that the reference to "national and international levels", as contained in the first reading text of this article, could be placed elsewhere, for example in article 2.

83. The representative of the United Kingdom and the observer for Greece expressed their preference for the established language of this article, namely the formula "individually and in association with others". The

representative of the United Kingdom felt that the acceptance of the mandate of the Working Group did not necessarily mean that it had to be linked to the wording of article 3.

84. Referring to an earlier proposal by the United States, the representative of Romania suggested that the word "groups" be replaced by "groupings" (in French, groupements).

85. After informal consultations, the representative of the United States proposed a new text of article 3 which, in his view, was a compromise and found acceptable by several delegations. The text read as follows:

> "Individuals and groups, as well as organs of society, have vital roles and responsibilities in protecting and promoting human rights and fundamental freedoms as contained in international human rights instruments. Everyone, whether individually or in groups, institutions or non-governmental organizations, has the right to engage in such activities at the national and international levels."

86. The observer for Greece sought clarification with regard to the meaning of the words "such activities" in the second sentence of the United States proposal. She also wanted to know whether there was any difference between the entities listed in the first and second sentences, since different terminology had been used.

87. The debate on the first sentence of article 3 was then suspended, and the Working Group moved to the consideration of the second sentence of this article as contained in the first reading text.

88. Referring to the words "other steps as much as may be necessary", the observer for the International Commission of Jurists proposed to delete the words "as much" which he considered unnecessary. This proposal was accepted by the Working Group. The representative of the United Kingdom, however, warned that these words might have some negotiating history which should be checked.

89. The representative of Austria felt that the formulation "the rights and freedoms referred to in this declaration" was too vague and that more specific wording was needed. The Chairman-Rapporteur pointed out that this wording was a result of a compromise reached at earlier sessions of the Working Group. The representative of Canada also favoured the retention of the existing wording.

90. The delegation of Cuba made two proposals with regard to the second sentence of article 3: first, to insert after the words "to ensure", the words "based on their national legislation and their international legal obligations freely contracted by each of them in this area"; and second, to add "which are recognized therein" after the words "in this declaration".

91. The representative of Australia and the observers for Sweden and Argentina expressed their disagreement with the proposals by Cuba. They

considered them inappropriate and superfluous since chapter V of the draft declaration already contained all necessary references to national legislation and international obligations.

92. The consideration of the second sentence of article 3 was then suspended.

B. Chapter II

Chapter II, article 1

93. At the 3rd meeting, on 19 January 1994, the Working Group began its consideration of article 1 of chapter II as contained in the first reading text.

94. The representative of Canada proposed new wording for this article as follows:

> "Everyone has the right to know and, on one's own behalf as well as on behalf of others, to be informed about human rights and fundamental freedoms and to make these known."

95. The representative of the Russian Federation supported the proposal.

96. The representative of Mexico proposed another formulation as follows:

> "Everyone has the right to know, to be informed about and to make known to others human rights and fundamental freedoms."

97. The representative of the Syrian Arab Republic stated that he had a problem with the word "others" in this proposal.

98. The observer for the International Commission of Jurists suggested adding to the text proposed by Mexico the following words: "whether these rights are possessed by oneself or by others".

99. The observer for Greece considered that the proposals put forward by Canada and Mexico gave too wide a scope to the nature of the information concerned.

100. After informal consultations, the Chairman-Rapporteur read out a new text for article 1 of chapter 2 which was adopted by the Working Group in the second reading. The text read as follows:

> "Everyone has the right to know, to be informed about and to make known to others human rights and fundamental freedoms to which they are entitled."

Chapter II, article 2

101. At its 4th meeting, on 20 January 1994, the Working Group began its consideration of article 2 of chapter II, as contained in the first reading

text. The Group also had before it a new text of this article as contained in document E/CN.4/1994/WG.6/CRP.2, proposed by the Chairman-Rapporteur on the recommendation of the informal drafting group.

102. The text of CRP.2 read as follows:

> "Everyone has the right, individually as well as together with others,
>
> (a) To seek, obtain, receive and hold information about these rights and freedoms, including having full access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
>
> (b) To publish, impart or disseminate freely to others views, information and knowledge of human rights and fundamental freedoms."

103. The Working Group had also before it the proposal of the delegation of China (E/CN.4/1994/WG.6/CRP.3) relating to paragraph (b) of article 2, the text of which read as follows:

> "(b) To publish, impart or disseminate to others views, information and knowledge of human rights and fundamental freedoms under guidance of applicable international instruments."

104. In the discussion that followed, the representatives of Australia, Canada, Austria, the United States and the Russian Federation and the observers for Greece and the International Commission of Jurists expressed their concern with regard to the deletion of the word "freely" in paragraph (b) of article 2, as proposed by China in CRP.3. It was argued that specific reference to "freely" was warranted, linking the article to the provisions on freedom of association as set out in article 19 of the International Covenant on Civil and Political Rights and in the Universal Declaration of Human Rights.

105. The representative of Cameroon expressed the view that the omission of the word "freely" had no importance if appropriate national legislation on this matter existed.

106. The representative of China explained that, instead of the formulations containing references to "reliable" and "objective" information which were proposed by his delegation earlier in the informal drafting group, it had now added, in CRP.3, the words "under guidance of applicable international instruments" at the end of paragraph (b). This concept, in the view of the delegation of China, was rather broad, and the omission of the word "freely" in the text of article 2 (b) was therefore not a matter of substance.

107. Several delegations disagreed with this proposal. The representative of the United States felt that the explicit reference to "applicable international instruments" implied broader powers of the State to control the dissemination of information which would be unhelpful to the free discharge by human rights defenders of their activities.

108. The observer for Greece felt that there was a contradiction between the words "under guidance" and "applicable" in the proposal of China and suggested that the words "under guidance of" could be replaced by "as contained in".

109. The representative of Austria expressed the preference of his delegation for the word "existing" in the place of "applicable". The representative of Cameroon felt that it would be more correct to speak here about international instruments "in force" for a particular State since the difference between the words "existing" and "applicable" was, in his view, of a purely theoretical nature.

110. The representative of the Russian Federation stated that the valuable proposal of China could enable the Working Group to reach a consensus on article 2. However, the reference to "international instruments" in the proposal should be more specific and changed to "international human rights instruments".

111. The representative of Australia proposed to replace the formula put forward by China by the words "in accordance with relevant international human rights instruments".

112. In another proposal, the observer for the International Commission of Jurists sought instead to add at the end of article 2 (b) the words "in accordance with provisions guaranteeing freedom of opinion and expression as contained in international human rights instruments".

113. The representative of Cuba proposed to add, at the end of the "chapeau" of article 2, the following words: "and in the exercise of respect for the purposes and principles of the United Nations, within the framework of national legislation and the Universal Declaration of Human Rights". It was also suggested by the representative of Cuba that the concepts of "non-selectivity, impartiality and objectivity" should be introduced in paragraph (b) of article 2.

114. The representative of the United Kingdom and the observer for the International Commission of Jurists stated that the limitation provisions were already present in several articles of chapter V and that they should not therefore be repeated throughout the text of the draft declaration.

115. The representative of China referred to article 19 of the Universal Declaration of Human Rights and stated that if the contents of this article were reflected in the text of article 2, his delegation would withdraw its earlier proposals.

116. The Chairman-Rapporteur of the Working Group proposed to use the language of article 19 of the Universal Declaration of Human Rights in paragraph (b) of article 2 of the draft declaration which would read as follows:

> "(b) To impart information and ideas through any media and regardless of frontiers."

117. The Working Group subsequently suspended its consideration of article 2 of chapter II.

Chapter II, article 3

118. At the 4th meeting, on 20 January 1994, the Working Group began its consideration of article 3 of chapter II, as contained in the first reading text.

119. The proposal of the Chairman-Rapporteur to delete the square brackets in this article was supported by the representatives of the Russian Federation and Canada and the observer for Greece. Several other delegations expressed their disagreement with the text contained in brackets.

120. The representative of China felt that this text was too ambiguous and that the meaning of the words "to solicit public attention" was rather vague. It could, in his opinion, legitimize the use of violence and even criminal acts, such as hijacking airplanes, solely under the pretext of soliciting public attention to human rights issues. Furthermore, he felt that this wording contradicted the aim of this article which was to "study, discuss and form opinions".

121. The representative of Cuba considered that the contents of article 3 added nothing to what had already been dealt with earlier, in article 2, and that it could therefore be deleted as repetitive.

122. The observer for Greece and the representative of Canada disagreed with such an interpretation of article 3 and noted that there had been a fundamental difference between articles 2 and 3 since the latter contained a statement on how the rights and freedoms referred to in article 2 should be observed in practice.

123. The representative of the Russian Federation raised the question of what concrete actions could include the words "to solicit public attention". He proposed to replace those words with "and thereby soliciting public attention ...". The observer for the International Commission of Jurists felt that such a formulation would unduly limit the activities of human rights defenders and prevent them from taking other types of action.

124. In a brief discussion with regard to the contents of the words "to solicit public attention", such examples were given as demonstrations in the streets, radio and television broadcasts, providing information to parliament, etc. The representative of China indicated that his main concern was that nothing in this article implied that the activities "to solicit public attention" should have a peaceful character.

125. The representatives of Cameroon and Colombia drew attention to the inadequate translation of the word "to solicit" in the French and Spanish versions of the first reading text of article 3.

126. The representative of the United States expressed the view that the phrase in square brackets could be changed and improved to reflect better the idea of this formulation.

127. The representative of the Russian Federation felt that this formulation could be better placed in article 2 or in article 4.

128. At its 5th meeting, on 20 January 1994, the Working Group continued its consideration of article 3 of chapter II, as contained in the first reading text.

129. For the purpose of meeting the concerns expressed by the representative of China on the wide scope of activities, including criminal ones, which might be covered by the term "to solicit", the observer for the International Commission of Jurists proposed to delete the square brackets and to replace the words "to solicit" with the following words: "through these and other similarly peaceful means, to draw and advocate".

130. The representative of Cuba expressed concern at the scope of the words "other means", and proposed to add to the amendment of the International Commission of Jurists the words "while observing their duties as citizens in carrying out these activities".

131. The representatives of Canada, the Russian Federation, the United States, Australia and the United Kingdom and the observer for Greece expressed their concern at the inclusion of further limitations in this article, as proposed by Cuba, since it raised problems with the structure of the draft declaration, which contained all limitation clauses in chapter V. In addition, they considered this proposal redundant in view of the limitation inherent in the word "peaceful".

132. The representative of the Syrian Arab Republic supported the proposal by Cuba since it would clarify the interpretation of the words "peaceful means" which had been used in different ways and could give rise to misinterpretations.

133. The representatives of the Russian Federation, Australia and the United Kingdom expressed their support for the proposal of the observer for the International Commission of Jurists. The representative of Cuba insisted on his proposal.

134. The representative of Mexico expressed her readiness to accept the removal of the square brackets if the following wording was added at the end of article 3: "in accordance with applicable national law and the requirements of public order".

135. The representative of the United States expressed his concern at what he considered to be an attempt to change the text fundamentally without paying attention to any of the concerns expressed by many delegations and by the Chair.

136. The Chairman-Rapporteur noted that a compromise solution on article 3 was not within reach.

Chapter II, article 4

137. At its 5th meeting, on 20 January 1994, the Working Group adopted in second reading article 4 of chapter II, as contained in the first reading text. It read as follows:

"Everyone has the right to develop and discuss new human rights ideas and principles, and to advocate their universal acceptance."

The representative of Cuba noted that there existed no generally accepted definition of the "new human rights ideas and principles" to which the article referred.

Chapter II, article 5

138. At its 5th meeting, on 20 January 1994, the Working Group considered article 5 of chapter II, as contained in the first reading text.

139. The observer for Greece proposed to substitute in paragraph 2 (a) of article 5 the word "availability" for the word "distribution" since she considered the scope of the latter word too wide. The representative of the United States proposed to add in paragraph 2 (a) the word "applicable" before the words "national laws". Both proposals met with the agreement of the Working Group.

140. The observer for the International Commission of Jurists proposed to add at the end of paragraph 2 (a) of article 5 the words "and of human rights case reports concerning that State". This proposal did not meet with the agreement of the Working Group.

141. The representative of the United Kingdom proposed to substitute the word "encourage" for the words "promote and improve" in paragraph 3 of article 5. The observer for the International Commission of Juriste further suggested to substitute the word "facilitate" for the word "improve". The observer for Argentina expressed its support for these suggestions with the argument that the words "to improve" implied an unwarranted judgement on the quality rather than the substance of the required teaching. The representative of the United States suggested to add before the words "to promote" the words "to take steps". Both this proposal and that of the International Commission of Jurists met with the general approval of the Working Group.

142. The representative of Cuba stressed the unwarranted imperative nature of the words "The State has the responsibility" in paragraph 3 of article 5. He suggested to use the wording of paragraph 82 of the Vienna Declaration and Programme of Action, but did not insist on his proposal.

143. The Working Group then adopted article 5 of chapter II reading as follows:

"1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the official report of these bodies.

3. The State has the responsibility to take steps to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education, and to encourage all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials to include appropriate elements of human rights teaching in their training programmes."

C. Chapter III

Chapter III, article 1

144. At its 5th meeting, on 20 January 1994, the Working Group began its consideration of article 1 of chapter III, as contained in the first reading text. The Group agreed with the proposal of the Chairman-Rapporteur to delete the words "[universally recognized]".

145. The representative of the Syrian Arab Republic suggested that the words "individually and in association with others" should also be deleted. The representative of Canada and the observer for the International Commission of Jurists, while expressing their preference for the original text, stated that they would be ready to accept the proposal of the representative of the Syrian Arab Republic if it could lead to consensus.

146. The representative of China proposed to add, after the words "human rights and fundamental freedoms" in the "chapeau" of article 1, the words "through peaceful means". It was also suggested that a qualifying word "relevant" could be inserted before the words "non-governmental and intergovernmental organizations" in paragraph (c).

147. The representative of Cuba proposed to add, at the end of the "chapeau" of article 1, the following: "and in conformity with national law and the relevant provisions of international human rights instruments and of international law". This proposal was opposed by the representative of Australia.

148. The representative of the United States expressed doubts as to whether the words "where relevant" were needed in paragraph (b).

149. At its 6th meeting, on 21 January 1994, the Working Group continued its consideration of article 1 of chapter III.

150. With regard to the earlier proposal by China to introduce the concept of "peaceful means" in the "chapeau" of the article, the representative of Canada and the observer for the International Commission of Jurists expressed their preference for the inclusion of the word "peacefully" in paragraph (b) after the word "participate". The representative of China retained his position

that this concept should be placed in the "chapeau" of article 1. Subsequently, this proposal was accepted by the representative of the United States.

151. With respect to the word "groups" in paragraph (b), the representative of the United States stated that whereas non-governmental organizations and associations might have certain legal status in domestic legislation, that would not be the case with "groups". He also felt that the words "where relevant" could be deleted.

152. The representative of Romania proposed to replace the last words of paragraph (b) after the word "associations", with the following: "or other similar non-governmental groups".

153. The representative of the Russian Federation considered it appropriate to retain the term "groups". This view was also shared by the representative of the Syrian Arab Republic who recalled that the word "groups" was a part of the title of the draft declaration.

154. The representative of Cuba insisted on his amendment introduced during the 5th meeting and stated that he would introduce similar references to national law in other parts of the text where the rights of individuals were treated in order to arrive at a balanced declaration. He further proposed putting the word "groups" in paragraph (b) in square brackets.

155. Several representatives expressed the disagreement of their delegations with the position of the representative of Cuba. They recalled that at previous sessions the Working Group had reached a consensus on the proposal to include all limitation provisions in chapter V. The representative of Cuba expressed the point of view that every delegation had the right to propose new ideas at any moment to improve the text so that it was acceptable to all and that no consensus would be reached until the declaration was ready to be improved in its entirety.

156. The Chairman-Rapporteur referred to the balanced compromise reached after eight years of discussions and to the confidence the delegations should have in that compromise. He stressed that the text of the declaration had to be seen as a whole and that each article had to be read in conjunction with the others. The deletion of the chapter headings was made with that purpose in mind. He questioned the necessity of repeating the limitation provisions already spelled out in chapter V. He also noted that, whereas every delegation indeed had the right to make proposals, every delegation also had the responsibility to exercise that right with restraint in order to complete the exercise as soon as possible. Any revision of a text as adopted in the second reading would only take place on grounds of inconsistency and upon reaching a consensus among the members of the Working Group. Discussion of article 1 of chapter III was subsequently suspended.

Chapter III, article 2

157. At its 6th meeting, on 21 January 1994, the Working Group began its consideration of article 2 of chapter III. The representative of Cuba expressed his preference for the deletion of the second sentence of article 2. He felt that the language of the Universal Declaration of Human Rights should be retained in the article without adding more specific wording.

158. The representatives of Australia, Canada and the United States and the observer for the International Commission of Jurists objected to the proposal.

159. The representative of the Syrian Arab Republic stated that he had no problems with the second sentence of article 2. The representative of Cuba subsequently informed the Chairman-Rapporteur that he would not insist on his proposal to delete the second sentence of article 2 of chapter III. The observer for the International Commission of Jurists suggested that the word "his" in the first sentence of article 2 should be replaced with the gender-neutral "one's".

160. The article was then adopted on the understanding that the introduction of the gender-neutral language was of an editorial nature and could be done at a later stage. The text of article 2 of chapter III, as adopted in the second reading, was as follows:

> "Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the Government of his country and in the conduct of public affairs. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms."

Chapter III, article 3

161. At the 6th meeting, on 21 January 1994, the Working Group began its consideration of article 3 of chapter III. The proposal of the observer for Amnesty International to delete the word "their" before the words "human rights", both in the first and second paragraphs of article 3, was accepted by the Group.

162. The representative of the United Kingdom recalled the position of his delegation as described in paragraphs 35 and 36 of the 1993 report of the Working Group (E/CN.4/1993/64). Furthermore, he proposed to replace the words "are entitled to be protected under" with "should enjoy the protection of".

163. The representative of the Russian Federation proposed to delete the reference to groups and to include the words "officials of" before the words "the State" in the second paragraph of article 3.

164. At the 7th meeting, on 21 January 1994, the Working Group continued its consideration of article 3 of chapter III.

165. The observer for Greece expressed her support for the deletion of the reference to groups in the second paragraph of article 2. She proposed to substitute the words "everyone is" for the words "persons and groups are".

166. The representatives of China and India stated that they had certain difficulties with the scope of the activities referred to in the article. The representative of India noted that the International Covenant on Civil and Political Rights referred exclusively to "peaceful assembly" and not to "peaceful activities".

167. The representative of Australia favoured retaining the words "peaceful activities". He supported the proposal of the observer for Greece, with the addition "everyone should enjoy protection under national law".

168. To meet the concerns expressed by the representatives of China and India, the representative of the United States proposed to insert, after the word "activities", the words "referred to in this declaration".

169. With regard to the second paragraph of article 3, the representative of Australia and the observer for Amnesty International did not interpret the article, as conferring any rights to groups, in contrast to the observations made by the representative of the United Kingdom.

170. The observer for Amnesty International suggested retaining the words "persons and groups" and replacing the words "are entitled to" by the words "shall be". The representatives of Canada and the United States supported this proposal.

171. As another alternative, the Chairman-Rapporteur proposed to replace the words "persons and groups" by the word "they".

172. The representative of the Syrian Arab Republic favoured retaining the reference to groups.

173. The Working Group was not able to reach a consensus on the matter.

174. With regard to the expression "the State", the representative of Canada proposed to replace the word "the" by "any" which would be in conformity with article 30 of the Universal Declaration of Human Rights. The observers for the International Commission of Jurists and Amnesty International supported the proposal. The representative of India preferred to retain the words "the State".

175. The Chairman-Rapporteur suggested adding the words "officials of" after the words "carried out by".

176. The representative of the United States proposed the wording "by States". The representatives of Australia and Canada expressed their agreement with the proposal.

177. The representatives of China, India, Mexico and the Syrian Arab Republic and the observer for Greece felt that the words "carried out by the State" should be retained.

178. The Working Group suspended consideration of article 3, leaving undecided the question pertaining to the words "peaceful activities", "carried out by the State" and "persons and groups".

Chapter III, article 4

179. At the 7th meeting, on 21 January 1994, the Working Group considered article 4.

180. The representative of Australia proposed to delete the words "[is entitled]". The proposal was supported by the observers for Amnesty International and the International Commission of Jurists.

181. The representative of the Syrian Arab Republic suggested to replace the words "has the right" by "may".

182. The representative of Canada and the observers for Sweden, Amnesty International and the International Commission of Jurists were in favour of deleting the second paragraph, as it was felt to be redundant.

183. The representatives of China and Cuba stated that article 4 should be deleted in its entirety as it contradicted the principles of national sovereignty and non-interference in the internal affairs of States. The representative of Cuba argued that the World Conference on Human Rights had decided not to incorporate these elements in its Declaration.

184. The representative of Mexico proposed to add, in the second paragraph, the word "applicable" before "national legislation".

185. No agreement was reached by the Working Group on article 4 of chapter III.

D. Chapter IV

Chapter IV, article 1

186. At its 9th meeting, on 24 January 1994, the Working Group began its consideration of article 1 of chapter IV, as contained in the first reading text.

187. The proposal of the Chairman-Rapporteur to delete the words "[universally recognized]" met with the approval of the Working Group.

188. The representative of the Syrian Arab Republic proposed the deletion of the word "other".

189. The representative of the United States argued in favour of retaining the word "other" on the grounds of grammar and logic. He suggested the following new wording to be introduced at the beginning of this article:

> "In the exercise of human rights and fundamental freedoms, including the right to promote and protect the rights referred to in the present declaration, everyone ...".

190. The representative of China argued that the right to effective remedies should be established exclusively for those subjects that were affected by human rights violations. To that effect he proposed to substitute the words "his/her" for "those". The representative of the Russian Federation supported the proposal.

191. The Chairman-Rapporteur proposed to substitute the word "these" for "those" since the article purposefully referred to remedies on behalf of third parties as well. In that context he mentioned article 2 (e) of the same chapter which covered the rights of lawyers to defend human rights defendants. In that case, the use of the word "their" would be misleading.

192. The representative of the Russian Federation argued that the inclusion of the adjective "effective" was not strictly necessary since such a reference was already contained in subsequent articles.

193. The representative of Romania proposed to qualify the word "effective" with the adverb "adequate" or "appropriate".

194. The representative of the Syrian Arab Republic suggested that if the word "effective" was unclear, it might be expedient to delete it.

195. The observer for Amnesty International argued in favour of retaining the concept of effective remedies in the article and proposed the following wording for the last two lines of the article:

> "... everyone has the right to benefit from effective remedies and to be protected in the event of violations of those rights."

196. A number of other delegations also expressed their wish to retain a reference to effective remedies. The observer for Greece argued that since the notion of effective remedies constituted standard language in the field of international human rights law, the omission of such a reference could be an unwarranted precedent.

197. The Chairman-Rapporteur felt that the deletion of the text of the article after the word "remedies" might be conducive to finding a compromise solution. The representative of Australia and the observers for Greece and Sweden supported the suggestion. The representative of Canada, however, noted that since there existed no right to recourse when no human right was violated, such a deletion would not benefit the text.

198. The representative of the Syrian Arab Republic favoured the qualification of "remedies" with the word "the", since reference to unqualified effective remedies in the plural would be too ambiguous. The representative of Sweden referred in that context to the text of article 8 of the Universal Declaration of Human Rights where reference had been made to "an effective remedy", and proposed to either use this wording of the Universal Declaration or at least refer to "remedies" in the plural. The Syrian delegation questioned the clarity of the competences involved in this article to provide for the remedies. Whereas this was clear in relation to the national level, with respect to which article 8 of the Universal Declaration referred to "the competent national tribunals", these competences were ill defined at the

international level. To come to grips with this problem, the Syrian delegate suggested the inclusion of wording such as "at the agreed upon international level," in addition to the inclusion of a reference to national court systems.

199. The Chairman-Rapporteur remarked that a reference to national courts had already been made in article 2 (b) of chapter IV and that a reference to international bodies with such competence had already been made in article 2 (f) of that chapter. On the understanding that the issue of those references could be taken up at a later stage of the drafting process, the Working Group agreed to defer consideration of those issues and adopted at second reading chapter IV, article 1, with the following wording:

> "In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in this declaration, everyone has the right to benefit from an effective remedy and to be protected in the event of violations of these rights."

Chapter IV, article 2

200. At its 9th meeting, on 24 January 1994, the Working Group began its consideration of chapter IV, article 2.

201. At the Chairman-Rapporteur's request, some delegations presented proposals or amendments. The representative of Germany referred to the proposal his delegation had previously presented (see CRP.17/2nd reading/2) to distinguish clearly between legal and non-legal remedies. The observer for Sweden referred to her delegation's proposal to further specify the remedies (see CRP.17/2nd reading/3).

202. The representative of Cuba proposed the following amendments to article 2:

(i) To add, in paragraph (a) before the words "Draw public attention", the following words:

> "Make use of channels and procedures established by the law and other provisions in force in order to";

(ii) To add at the end of paragraph (a), after the words "international bodies", the words "in the field of human rights, once domestic remedies on the subject have been exhausted.";

(iii) To delete in paragraph (c) the word "just" and to substitute the words "in accordance with the law which provides, if appropriate, reparation including" for the words "providing redress, including any";

(iv) To substitute, in paragraph (d), the words "if this is authorized by the rules governing the proceedings followed" for the words "such relevant hearings or proceedings"; to add, before the words "trials to assess", the word "relevant"; to add after the words "international standards" the words "which are applicable to this procedure"; and

(v) To add, in paragraph (f), after the words "unhindered access" the words "once domestic remedies on the subject have been exhausted".

203. The representative of Mexico expressed her delegation's support for the above proposed amendments. In addition, she proposed the following wording for paragraph (f):

"Free access, once the relevant internal remedies have been exhausted, to the mechanisms provided for by the applicable international human rights instruments which have general or special competence to receive and consider communications on matters of human rights, and unhindered communication with them, using the established procedures."

204. At its 10th meeting, on 25 January 1994, the Working Group continued its consideration of chapter IV, article 2.

205. The observer for the International Commission of Jurists introduced CRP.4, which read as follows:

"Chapter IV, article 2

IV. 2 (e)

Add at the end:

", at the national and international levels."

IV. 2 (f)

Insert [Begin with]:

"Have" ("Have unhindered access ...")

IV. 2 (g) (NEW)

"Have reasonable access to, and reasonable opportunities to examine, and to obtain or copy, the written decisions or reports of the bodies and authorities referred to in sub-articles (a) and (b) above."

IV. 2 bis (NEW)

"Everyone has the right to attend, as an international observer, public court hearings and trials in any country to assess their fairness and compliance with international standards. It is affirmed that such hearings and trials are required to be public, and may be held in camera only in circumstances prescribed by law and consistent with obligations contained in international human rights instruments."

206. As regards article 2, paragraph (e), the representative of China proposed the deletion of the words "assistance, including" and "[universally recognized]". The representative of the United Kingdom proposed to replace the words "has the right" in the "chapeau" of article 2 by "may" or "will be able".

207. The Chairman-Rapporteur said that, although delegations had the right to submit amendments, at any time, on parts of the text still under consideration, the Working Group was trying to finalize the declaration and not to rewrite it. He suggested that before taking decisions with regard to chapter IV, article 2, the Working Group should look again into the provisions already established in chapter V. Consideration of chapter IV, article 2, was thus suspended.

Chapter IV, article 3

208. At its 10th meeting, on 25 January 1994, the Working Group began its consideration of chapter IV, article 3.

209. The representative of Canada proposed to replace, in the "chapeau", the words "to the same end" with the words "in order to ensure the rights set out in article 1". In that connection, the observer for Sweden proposed to add at the end of the amendment the words "each State should provide an effective framework of remedies to redress human rights grievances or violations". The Chairman proposed further amendments to those proposals by suggesting a new formulation: "In order to ensure that every State shall provide an effective framework of remedies to redress human rights grievances or violations, as set out in article 1, ...".

210. Subsequently, the representative of Canada and the observer for Sweden withdrew their proposals and the Working Group adopted the "chapeau" of article 3 as contained in the first reading text. It read as follows:

> "To the same end, each State shall, inter alia:".

211. The Working Group then considered chapter IV, article 3, paragraph (a). The representative of the United Kingdom proposed to insert at the beginning of paragraph (a) the words "Work to". The representative of the United States of America proposed the insertion of the words "Take all necessary steps to" at the beginning of paragraph (a). The representative of Australia and the observer for Amnesty International supported the proposal of the representative of the United States of America.

212. The text of chapter IV, article 3, paragraph (a) was adopted by the Working Group at second reading. It read as follows:

> "Take all necessary steps to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this declaration."

213. The Working Group then began its consideration of paragraph (b) as contained in the first reading text.

214. The representative of the United Kingdom proposed the insertion of the words "as appropriate" after the word "support". The observers for Sweden and

the International Commission of Jurists agreed with the idea behind that proposal, but favoured the insertion of the words "as appropriate" after the word "institutions".

215. The representative of the Syrian Arab Republic proposed the deletion of the words "and other appropriate mechanisms". The representative of Australia proposed to delete "[universally recognized]". That proposal met with general consensus.

216. The representative of Cuba introduced two amendments. The first one was to insert the words "If considered necessary or appropriate by the competent authorities" at the beginning of paragraph (b). The second amendment consisted of deleting all the words at the end of the paragraph after the word "jurisdiction". The representative of Cuba motivated the proposal by stating that States set up human rights institutions when they considered it necessary and appropriate. States should be free to set up any types of institutions, and the examples given at the end of the paragraph were therefore not needed.

217. The representatives of China and the Syrian Arab Republic supported the amendments put forward by the representative of Cuba. The representatives of France and the United Kingdom and the observer for the International Commission of Jurists disagreed with the Cuban proposals.

218. The representative of the Russian Federation said that the concerns behind the first Cuban proposal were already covered by the words "as appropriate", proposed by the representative of the United Kingdom. Furthermore, the representative of the Russian Federation disagreed with the Cuban proposal concerning the deletion of the last part of paragraph (b).

219. The representative of France indicated that the French word "développement" had a broader meaning than the English word "development". Consequently, the delegation of France proposed that in the English version of the text, the words "the creation and" be inserted before "development". She also suggested that the words "or any other form of national institutions" could be added at the end of paragraph (b). The representatives of China and the Syrian Arab Republic agreed with the first amendment put forward by the representative of France.

220. At the 11th meeting, on 25 January 1994, the Chairman-Rapporteur introduced CRP.5 containing his proposal concerning chapter IV, article 3 (b). The text of CRP.5 read as follows:

> "(b) Encourage and support, as appropriate, the creation and development of further institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions."

221. The representative of Cuba proposed to change the words "as appropriate" to read "where appropriate". This proposal was accepted by the Working Group.

222. At the same meeting, the Working Group adopted at second reading the text of article 3, paragraph (b) as contained in CRP.5 and as amended by the representative of Cuba. The text read as follows:

> "(b) Encourage and support, where appropriate, the creation and development of further institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions."

223. The Working Group began its consideration of chapter IV, article 3, paragraph (c) at its 10th meeting on 25 January 1994.

224. The observer for the International Commission of Jurists proposed to add at the end of paragraph (c) the words "and cooperate, as necessary, with any such investigation or inquiry".

225. The representative of Australia proposed the deletion of the words "[universally recognized]".

226. The representative of China proposed to replace the word "reasonable" with "substantial". The representatives of Australia and Canada and the observers for Sweden and Amnesty International objected to that proposal and expressed their preference for retaining the word "reasonable".

227. The representatives of China and the Syrian Arab Republic found the proposal of the International Commission of Jurists difficult to accept. The representative of the Syrian Arab Republic proposed to replace the wording at the beginning of paragraph (c) by the words "Take the appropriate legal measures".

228. The observer for Amnesty International felt that the proposal of the representative of China, as well as some other proposals put forward earlier, risked lowering the standard of the article and, consequently, diminishing the effectiveness of the declaration. This view was shared by the representative of Canada.

229. The representative of France drew the attention of the Working Group to the wording used in the Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in resolution 47/133 of 18 December 1992. Article 8 of that Declaration included the words "substantial grounds", while in article 13 the wording used was "Whenever there are reasonable grounds to believe" which was more applicable to article 3, paragraph (c). Article 15 referred simply to "grounds". The representative of Mexico preferred to maintain the text of paragraph (c) and, in general, the whole text of article 3, as contained in the first reading text.

230. At the 11th meeting, on 25 January 1994, the Working Group continued its consideration of article 3 (c).

231. The representative of Cuba expressed the view that paragraph (c) was not necessary and that it should not have been included at all. He proposed to add the following text as the second sentence of paragraph (c):

> "These procedures will have to follow the mechanisms established under national law".

232. Consideration of the paragraph was suspended.

233. At the 16th meeting, on 28 January 1994, the Working Group adopted at second reading chapter IV, article 3 (c) as contained in the first reading text, having deleted the words in square brackets. The text of article 3, paragraph (c) read as follows:

> "Conduct or ensure that a prompt and impartial investigation or inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction."

234. The representative of China expressed its interpretation of the words "reasonable ground" as requiring definition by the country concerned in its domestic law.

235. The observer for the International Commission of Jurists stated that, in its interpretation of this paragraph, States should cooperate fully with any inquiry, and referred in this context to Part II, paragraph 57 of the Vienna Declaration and Programme of Action.

Chapter IV, article 4

236. At the 11th meeting, on 25 January 1994, the Working Group began its consideration of chapter IV, article 4 as contained in the first reading text.

237. The representative of Cuba suggested the deletion of the words "[universally recognized]".

238. The observer for Greece proposed the deletion of the words "and self-respect" since the article in the present wording proposed to respect the self-respect, which was grammatically incorrect.

239. The observer for the International Commission of Jurists proposed to add the following new sentence at the end of the article:

> "Each State shall encourage and facilitate the exercise of this right and responsibility."

240. The representatives of Cuba and Romania disagreed with that proposal as it was not pertinent in the context of the article, which referred to individuals and groups as opposed to States.

241. The proposal was subsequently withdrawn by the observer for the International Commission of Jurists.

242. The representative of the United Kingdom proposed to add, in the opening phrase after the word "enjoyment", the words "by others" in order to clarify the intention of the article.

243. The representative of the Russian Federation asked for clarification of the word "occupational", which in Russian referred to a process of material production, in which case it could be considered as irrelevant and might be deleted.

244. The Chairman-Rapporteur explained that the word "professional" referred mostly to intellectual activities whereas the word "occupational" had a wider scope. The representatives of Australia and Canada gave further clarification on the phrase "professional or occupational activities" explaining, inter alia, that the word "professional" had a more limited connotation, implying a higher educational standard, a higher degree of independence and institutionalization involving internal mechanisms of supervision of official standards, whereas the word "occupational" covered basically all other persons' activities.

245. The representative of the United Kingdom further proposed the deletion of the phrase "these rights and freedoms and the dignity and self-respect of every individual, as well as" and to add after the word "applicable" the phrase "to the protection of human rights and fundamental freedoms". Instead of the generality of the rights and freedoms referred to in that part of the article, article 4 should refer only to special rights which were touched upon through the professional activity concerned.

246. The representatives of Canada and Poland supported both of the proposals made by the representative of the United Kingdom. The representative of the Russian Federation supported the first proposal only.

247. The representative of the Russian Federation proposed to delete the phrase "whose professional or occupational activities may affect the enjoyment of [universally recognized] human rights and fundamental freedoms".

248. The representatives of Australia and Canada expressed their disagreement with that proposal.

249. As an alternative to his earlier proposed addition, the representative of the United Kingdom proposed to add after the word "applicable" the phrase "national standards of ethics in conformity with international human rights standards". The Chairman and the representative of Canada objected to that language because it would limit the intent of the article. The representative of China felt that, if no balance was found between the promotion of human rights and occupational standards, the article should be deleted.

250. After informal consultations the representative of the United States of America proposed the following negotiated text:

> "Everyone who, as a result of their profession or occupation can affect the human rights and fundamental freedoms of others, should respect

human dignity and these rights and freedoms and should comply with all applicable national and international standards of professional or occupational conduct or ethics in this regard."

251. The representative of the Russian Federation agreed to that text but insisted on deleting or modifying the reference to "occupational" in the Russian language version of the draft declaration, for the reasons earlier expressed.

252. The representative of China preferred to retain the part containing the first reading text of the article of the proposal made by the representative of the United States and to substitute the phrase "all national and international standards as may be applicable" for the phrase "all applicable national and international standards of professional or occupational conduct or ethics in this regard".

253. The representative of the Syrian Arab Republic did not support the proposal by the representative of the United States of America on the grounds that the article should also mention rights and not only obligations. It also stated that the article should not apply to State officials, and proposed the following new text:

"Individuals and groups, in conformity with the law, have the right to exercise their professional activities freely. In the exercise of this freedom, they are to respect national and international rules of professional ethics and conduct. The State must encourage, facilitate and monitor the exercise of professional and occupational activities."

254. The representative of Canada and the observer for the International Service for Human Rights objected to that proposal.

255. The representative of Canada felt that some of the concerns of Syria could be lifted if the Group returned to the original text. She further proposed to substitute the words "Individuals or groups" for the word "Everyone", in the United States proposal.

256. The Chairman favoured that Canadian suggestion and proposed to add, in the United States proposal, after the word "others" the words "have the right and". The Chairman also suggested modifying the second part of the text proposed by the representative of the United States to read:

"... and should comply with national and international standards of professional or occupational conduct or ethics as may be applicable".

257. The representative of the United Kingdom proposed to insert the word "such" before "national and international" in the Chairman's proposal.

258. At its 17th meeting, on 28 January 1994, the Working Group continued its consideration of article 4 of former chapter IV. Upon a compromise proposal presented by the delegation of the United States of America, the Working Group adopted article 4 at second reading in the following wording:

"Everyone, whether individually or in groups, has the right to the lawful exercise of his occupation or his profession. Everyone who, as a result of his occupation or profession, can affect the human dignity, human rights and fundamental freedoms of others, should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics."

E. Chapter V

Chapter V, article 1

259. The Working Group considered chapter V, article 1 as contained in the first reading text, at its 12th meeting, on 26 January 1994.

260. The observer for Amnesty International proposed to delete the square brackets at the end of the article and to retain the text contained therein. That proposal was supported by the delegations of Canada and Cuba. The representative of the United Kingdom proposed, for grammatical purposes, to substitute a comma for the word "and" after the words "Universal Declaration of Human Rights".

261. The Working Group agreed to those proposals and adopted at second reading the text of chapter V, article 1, as follows:

"Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments in this field."

Chapter V, article 2

262. The Working Group began its consideration of chapter V, article 2, as contained in the first reading text, at its 12th meeting, on 26 January 1994.

263. The observer for Amnesty International proposed to add after the word "implemented" the words ", promoted, protected"; to substitute a full stop for the comma after the word "enjoyed" and to delete the remainder of the article.

264. The representative of China proposed the following four amendments:

(i) To add the words "including domestic regulations" after the words "domestic law";

(ii) To delete the words "and commitments";

(iii) In the words "is the juridical framework", to replace "is" by "shall be";

(iv) To put a full stop after the words "and enjoyed" and to replace the remaining text by the following sentence: "All activities referred

to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be governed by such domestic law and regulations".

265. The representative of Romania suggested to replace the word "is" by the word "represents" in the part of the article reading "is the juridical framework". Subsequently, he indicated that he did not insist on that amendment.

266. In the discussion that followed, the representatives of Canada, Australia and the observers for Greece, Sweden and Amnesty International expressed their reservations with regard to the first amendment of China. They considered that the concept of law did not require further qualification and that it, in principle, covered any other domestic regulations and legal provisions. In their view, the addition of the words "including domestic regulations" was therefore superfluous.

267. The representative of the Russian Federation indicated that in some countries the concept of legislation included only the laws as such, but not various regulations and enactments. He therefore considered the first proposal of China as useful and legally correct.

268. The observer for the International Commission of Jurists referred to the Universal Declaration of Human Rights, in which exclusive reference was made to the notion of law. The representative of Australia, having also expressed his preference for the term "law", proposed a possible alternative wording: "domestic laws and regulations" which, in his view, could accommodate all the concern.

269. The representative of the United States of America suggested that the word "law" could be replaced by the words "legal provisions". That proposal was supported by the representatives of Poland, the Russian Federation and the observer for Amnesty International. The representative of the Russian Federation, however, felt that in the proposal of the United States, the word "provisions" could be changed to "acts" or "enactments".

270. The representative of China suggested modifying the proposal of the United States of America to read: "domestic law and other legal provisions".

271. The representative of the United Kingdom pointed out that the exclusive reference to law had been made elsewhere in the draft declaration, and that, if that concept were to be modified in chapter V, similar problems would arise in other chapters. With regard to the proposals of the representative of the Russian Federation, he considered that they were not applicable to the Common Law system. That view was shared by the delegation of Canada.

272. With regard to the second amendment proposed by the representative of China, the representatives of Australia, the Russian Federation and Sweden felt that in some instances the term "commitments" was more relevant than the word "obligations", and they therefore favoured its retention.

273. The representative of China argued that commitments involved mostly bilateral undertakings among States. In his view, only international obligations could have a bearing on domestic law, since a commitment could not require a revision of national law.

274. The representative of Australia contested such an interpretation and stated that certain international commitments might necessitate appropriate actions at the national level, including the improvement of domestic legislation. That view was shared by the Chairman who also felt that the Working Group should not restrict the contents of the draft declaration to legal obligations. He pointed out that the nature of the declaration itself was rather a commitment since it would not be, strictly speaking, a legally binding document.

275. The representative of China stated that even if some international commitments could have an impact on domestic law, the language of the article should be modified. He put forward a further proposal to replace the words "commitments of the State" by the words "commitments applicable to the State".

276. The representative of the United States of America expressed strong reservations with respect to the third amendment of the representative of China, and pointed out that, by replacing "is" by "shall be", the descriptive character of the article would be changed into a prescriptive one, and the balance of the text, as well as its meaning, would thus be altered.

277. The observers for Greece, Sweden and Amnesty International also voiced their preference for retaining the original text of that part of article 2. The representatives of Canada, Australia and the observer for Amnesty International noted that the words "shall be", as proposed by the representative of China, would introduce into this article not only the obligatory language, but also an element of future consideration or application.

278. The representative of China explained that by using the words "shall be", the importance of the provisions of the article would be emphasized.

279. Regarding the fourth amendment proposed by the representative of China, the observer for Greece opposed it as being too restrictive, whereas the representative of Cuba supported it.

280. With respect to the amendments proposed by the observer for Amnesty International, the observer for Greece and the representatives of Australia and Cuba expressed their support for the insertion of the words ", promoted, protected", but disagreed with the deletion of the last part of the article.

281. The observer for the International Commission of Jurists fully supported the proposals of Amnesty International and stated that some of the activities of human rights defenders could be conducted outside domestic jurisdiction like, for example, their participation in the work of the Working Group. The last part of article 2 was therefore not relevant and should be deleted, as proposed by Amnesty International.

282. The observer for Amnesty International explained that his proposal to delete the second part of article 2 was based on the fact that some activities of human rights defenders, for example, activities developed at the international level, were not regulated by national law. Besides, no additional restrictions on those defending human rights should be imposed, especially in view of the already existing limitations.

283. The representative of the United Kingdom expressed the opinion that the original language of article 2 represented a very delicate compromise and that it would be unwise to try to change it. The observer for Sweden was also of the view that the sensitive balance of the article should not be upset by too many amendments. In order to remove at least some of the concern expressed, she proposed to delete the word "all" before the word "activities".

284. At its 13th meeting, on 26 January 1994, the Working Group continued its consideration of chapter V, article 2.

285. The Chairman-Rapporteur clarified the understanding upon which a compromise text of the article, which had emerged from informal consultations, was proposed by him for adoption by the Working Group. Firstly, he noted that whereas the notion of law had a more narrow connotation in Russian than in English, it should be explicit in the Russian translation that the words "domestic law", as used in that article, denoted all normative acts of both legislative and executive bodies. Secondly, the Chairman explicitly stated that even though the latter part of the article might be read as implying a need for authorization for activities undertaken by human rights defenders, such a potential implication would clearly not be the intention of the Working Group and would therefore constitute a case of misinterpretation. Thirdly, the Chairman expressed the hope that the issue of referring to the requirements of domestic legislation would have been appropriately dealt with in that article.

286. The Working Group subsequently adopted chapter V, article 2 at second reading in the following wording:

> "Domestic law consistent with the United Nations Charter and other international obligations and commitments applicable to the State in the field of human rights and fundamental freedoms, is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted."

287. In the view of the representative of China, "domestic law" as used in chapter V, article 2, should be defined by the country concerned according to its own domestic law.

Chapter V, article 3

288. At its 13th meeting, on 26 January 1994, the Working Group began its consideration of chapter V, article 3, as contained in the first reading text.

289. The representative of Mexico proposed to add the words "applicable national" before the word "law". The delegation of Austria proposed to add the words "or international human rights instruments" after the word "law".

290. The representative of Romania suggested to add at the end of the article, after the word "obligations" the following words: "including those contained in the Convention on the International Right of Correction".

291. The observer for the International Commission of Jurists proposed to add after the last word "commitments" the words "in the field of human rights and fundamental freedoms and in the field of international humanitarian law". Such addition would clarify the reference made in the latter part of the article to non-derogable rights as contained in the human rights instruments that had evolved since the adoption of the Universal Declaration of Human Rights, article 29 of which constituted the basis for that article of the draft declaration.

292. The representative of the Syrian Arab Republic stated that the differences existing between countries with respect to the concepts of morality, public order and general welfare make it rather difficult to be fully in conformity with international obligations and commitments.

293. The representatives of Australia, the United Kingdom and the United States of America and the observer for Sweden expressed strong reservations against adding any language which was different from article 29 of the Universal Declaration of Human Rights.

294. The Working Group agreed that the current text of article 3 represented a balanced compromise between all the opinions expressed and should not be changed further. The Working Group subsequently adopted chapter V, article 3 in the wording of the first reading. The text read as follows:

> "In the exercise of the rights and freedoms referred to in this declaration, everyone, acting individually or in association with others, shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society and in accordance with applicable international obligations and commitments."

Chapter V, article 4

295. At its 13th meeting, on 26 January 1994, the Working Group began its consideration of chapter V, article 4, as contained in the first reading text. The observer for Sweden and the representatives of Australia, Austria, Canada, France, the Russian Federation, the United Kingdom and the United States of America were in favour of the deletion of the article as it duplicated the provisions already contained in article 5 (3) and elsewhere in the draft declaration.

296. The representatives of China and the Syrian Arab Republic were in favour of retaining the article with some amendments. The representative of Mexico referred in this connection to some of the proposals submitted to the Working Group the previous year, as contained in CRP.8, CRP.10 and CRP.15.

297. The representative of France pointed out that the concept of limitations under international law applied to States only, whereas no reference was made to States in that article. The representative of the United States of America stated that, if the article was to be retained, it should either refer to States, or not indicate any subjects, such as individuals, groups and organs of society, but rather use more general language.

298. The Chairman noted that for reasons of consistency with international law a choice would have to be made between the inclusion of a reference to States and the deletion of the reference to the subjects of international law mentioned in the article. The representative of Australia suggested adopting wording in conformity with article 5.1 of both Covenants on human rights. The observer for Sweden suggested following the wording of article 30 of the Universal Declaration of Human Rights.

299. At the 14th meeting, on 27 January 1994, the Working Group continued its consideration of chapter V, article 4. The Chairman further clarified his view that, since the purpose of that article was to prevent abuse of both the rights and the responsibilities of all the subjects referred to in the declaration, the inclusion of a reference to the State was of primordial importance. In view of the opposing opinions expressed in the earlier debate on that article, he proposed the Working Group agree to the compromise suggestion of the representative of Australia and to adopt the article, using the language of identical article 5.1 of both human rights Covenants, substituting the word "Declaration" for the word "Covenant".

300. The representative of China expressed his concern that the proposed formulation for the article, based on the Covenants, did not refer to the right and responsibility of individuals, groups and organs of society and that therefore the text proposed by the Chairman would benefit from further amendment. That view was shared by the representative of Syria.

301. The representatives of Australia, Cameroon, Canada and the observer for Sweden were in favour of the proposal of the Chairman. The representatives of Australia, Canada and the United States of America noted that, if agreement could not be reached, the deletion of the article should again be considered.

302. Following informal consultations, the Working Group accepted the proposal of the Chairman, which consisted of adding a reference to States.

303. The Working Group then adopted chapter V, article 4 at second reading. It read as follows:

> "Nothing in the present declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the

destruction of the rights and freedoms referred to in this declaration or at their limitation to a greater extent than is provided for in this declaration."

304. Upon the adoption of chapter V, article 4, the representative of Cuba made a statement on his delegation's interpretation of the limitation provision contained therein, noting that the limitations referred to were not only those established in the declaration but also those contained in other international instruments in that field, as explicitly referred to in chapter V, article 1.

Chapter V, article 5

305. At its 14th meeting, on 27 January 1994, the Working Group began its consideration of chapter V, article 5, as contained in the first reading text.

306. The observer for the International Commission of Jurists proposed to add the word "States" as the opening word of paragraph 3 and to replace the words "an important role to play and a responsibility" with the words "important roles to play and responsibilities". Also, he suggested deleting the words "a democratic society", as he considered them to be superfluous, and to delete the word "other" before the word "activity" as well as the phrase "including progress accomplished in these areas". The above proposals were later issued in CRP.8 (see annex II to the present report).

307. The Working Group also had before it CRP.6, which contained the proposal of the observer for Amnesty International relating to article 5, paragraph 3. The text of CRP.6 read as follows:

"Chapter V, article 5, paragraph 3

Add at the end:

No such programmes or activities aimed at securing acknowledgement of and accountability for past human rights violations shall be considered as being aimed at the destruction of democratic processes and human rights and fundamental freedoms."

308. In introducing CRP.6, the observer for Amnesty International stated that the aim of paragraph 3 was, inter alia, to preserve and reinforce democratic processes. Periods of transition to democracy were often preceded or accompanied by violations of human rights, while attempts to establish the truth about those violations and to institute legal action to redress them, once the democratic process had begun, were often unsuccessful because of the responses thereto by those parts of the State machinery affiliated with the past regime. The activities referred to in this paragraph were therefore among the most important of human rights defenders. The representative of Cuba supported that point of view.

309. The representative of Cuba proposed to add a new paragraph at the end of article 5. The text of that paragraph, which later was issued as CRP.7, read as follows:

"4. To this end everyone has a duty, inter alia:

(a) To refrain from using the promotion and protection of human rights for political purposes extraneous to the humanitarian essence of those activities;

(b) To refrain from encouraging or participating in activities detrimental to the principle of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of States or contrary to the security and stability of the country in which he lives;

(c) To refrain from acts contrary to the right of the people to which he belongs to achieve full self-determination and freely to exercise such self-determination to determine its political status and economic, social and cultural development;

(d) To refrain from any kind of propaganda for war or advocacy of national, racial or any other hatred which constitutes incitement to discrimination, hostility or violence;

(e) To observe the principles of objectivity, impartiality and non-selectivity in carrying out such activities;

(f) To refrain from manipulating information and events with the aim of defaming or damaging the image of other persons and institutions, thereby encouraging smear campaigns;

(g) To refrain from using the promotion of human rights as a way of covering up activities inconsistent with the purposes and principles of the United Nations."

310. The representative of Romania proposed to add, at the end of the first sentence of paragraph 3, after the word "freedoms", the following phrase:

"particularly by contributing to making the public more aware of questions relating to human rights and in carrying out educational, training and research activities in this area directed at furthering understanding, tolerance, peace and friendly relations among nations and amongst all racial and religious groups".

In connection with this proposal, the representative of Romania referred in particular to part I, paragraphs 33 and 38 and part II, paragraphs 78 and 82 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights.

311. The representative of China made the following three proposals concerning article 5: to replace the words "Everyone had" with the words "Individuals, groups and organs of society have" in paragraph 1; to substitute in paragraph 3 the words "organs of society" for the words "institutions and non-governmental organizations"; and to delete the words "an important role to play and" in paragraph 3.

312. The representative of Canada proposed, in the last line of paragraph 2, the removal of the comma after the word "community" and the insertion in its place of the word "as". She also proposed the addition of the phrase "whose universal nature is beyond question" at the end of the paragraph.

313. The observer for Sweden recalled and reiterated the proposal previously made by the representative of Finland (see E/CN.4/1993/WG.6/1, para. 89) to delete article 5.

314. The observer for the International Commission of Jurists stated that if consensus could not be reached on article 5, the deletion of paragraphs 2 and 3 might be an alternative to that proposal.

315. At its 15th meeting, on 27 January 1994, the Working Group continued its consideration of chapter V, article 5.

316. With regard to the proposal of the Chinese delegation, introduced at the 14th meeting, to substitute the words "Individuals, groups and organs of society have" for the words "Everyone has" in paragraph 1 of the article, the representative of the United States expressed his reluctance to accept such broadening of the scope of the legal subjects in the article, considering that the wording of paragraph 1 was an almost verbatim reflection of article 29 of the Universal Declaration of Human Rights. The representative of Australia drew the attention of the Working Group to the logical non sequitur of that language; in his view, "groups" and "organs of society" could hardly develop any kind of personality.

317. The observer for the International Commission of Jurists expressed his support for the proposal of the Swedish observer to delete article 5 of chapter V in its entirety.

318. With regard to the proposals of the representative of Canada, introduced at the 14th meeting, relating to paragraph 2 of the article, the representative of the Syrian Arab Republic favoured the retention of the present wording; it was the result of lengthy debates during which his delegation had made many concessions. The main aim of paragraph 2 was respect for cultural identity rather than the universality of human rights and fundamental freedoms.

319. The representative of Cuba supported the views expressed by the representative of the Syrian Arab Republic.

320. The representative of the United Kingdom reiterated the concerns expressed during last year's session by various delegations, including its own, that the text should be made clear so that it could ensure the right of the individual to speak out against those aspects of culture which might undermine his or her human rights and fundamental freedoms. He expressed the support of his delegation for the Canadian proposal and suggested, as an alternative if the proposal of Canada were not to meet with agreement of the Working Group, to add at the end of the paragraph, after the words "fundamental freedoms", the words "which should be promoted regardless of political, economic and cultural systems".

321. The representative of Chile proposed, as an alternative to the previous proposals, to add after the words "consistent with" the words "the universal character of".

322. The representatives of Australia, Romania, Russian Federation and the United States of America, and the observer for Sweden expressed their support for the proposals made by the representative of Canada at the 14th meeting.

323. Subsequently, and following informal consultations, the representative of the United States of America suggested as a compromise to substitute the words "in the light of the universal nature of" for the words "consistent with".

324. No consensus was, however, reached by the Working Group with regard to article 5, paragraph 2.

325. With regard to the proposals made earlier in relation to article 5, paragraph 3, the representatives of Australia, Austria, and Canada, and the observer for Sweden, supported all four proposals made by the observer for the International Commission of Jurists. The representative of Chile was in favour of retaining the words "in a democratic society", but supported the other three proposals.

326. The representatives of Australia, Austria and Chile, and the observer for Sweden supported the proposal of the observer for Amnesty International as contained in document CRP.6. They agreed with the idea expressed in this proposal to counter the unwarranted criticism of the activities deployed by human rights defenders, that they destroyed the fragile democratic process, but suggested that more compact wording could be drafted. The representative of Austria proposed to add at the end of the text of CRP.6 the words "provided they are carried out by peaceful means".

327. The representative of Cuba supported the proposals made by the representative of China concerning paragraph 3. The representative of Chile and the observer for the International Service for Human Rights said that they could not see the purpose of any reference to "organs of society" since it was unclear what exactly was covered by that notion. They argued that if it covered States, the reference would seem superfluous; if it did not cover States, the reference would lack the specificity of that made to "institutions and non-governmental organizations" in the present wording of the paragraph. The representatives of Australia, Austria and Canada, and the observers for Sweden and the International Service for Human Rights objected to all the proposals of the representative of China. The representative of Austria felt that non-governmental organizations had an increasingly important role to play in the defence of human rights that was generally recognized and therefore merited explicit reference in the declaration.

328. The representative of International Service for Human Rights expressed the view that the amendments proposed by the representative of China would make the text unbalanced, and that the inclusion of so many provisions to protect the State against the activities of non-governmental organizations, rather than limitations on the State's interfering in those activities, would risk the draft declaration losing all credibility for the human rights

defenders who should be protected by it. The representative of International Service for Human Rights felt that in such circumstances the Swedish proposal to delete completely article 5 of chapter V could be the last resort.

329. The representatives of Australia, Austria, Chile and Cuba agreed with the idea expressed in the proposal by the representative of Romania, but suggested that more compact wording should be found and that it could be better placed elsewhere, for example in chapter II. The observer for Sweden felt that the subject-matter had already been adequately dealt with in other parts of the draft declaration, e.g. in articles 2 and 5 of chapter II.

330. At the 16th meeting, on 28 January 1994, the Working Group discussed the proposal of the representative of Cuba (CRP.7) to add a new paragraph to article 5.

331. The representative of Australia expressed the serious reservations of his delegation to the language of the Cuban proposal. In particular, he considered paragraphs (a), (b), (f) and (g) to be inappropriate, unnecessary and inconsistent with the general thrust of international human rights instruments. Also, it was not necessary to add a new paragraph on duties since chapter V already contained limitations provisions.

332. The representative of Canada supported the observation of the representative of Australia. The Cuban proposal was inconsistent with the mandate of the Working Group and would upset the current balance between rights and responsibilities. As a consequence, the delegation of Canada would not be able to sign the declaration if that language were to be included.

333. The observer for the International Commission of Jurists noted that none of the provisions in chapter V were necessary as they had already been dealt with in the Universal Declaration of Human Rights and in the two human rights Covenants. The Cuban proposal did not take into account the compromises that had been reached between delegations over a period of seven years, and it violated the mandate of the Working Group which was to protect human rights defenders as opposed to the State. In particular, paragraph (a) was to be considered as void for being too vague and paragraph (e) was unacceptable because it did not specify who would decide on the respect of the principles of objectivity, impartiality and non-selectivity and, furthermore, could require, for instance, a family of disappeared persons to be objective, which would be highly unwarranted in such a situation. Furthermore, the issues that could possibly matter were already covered in article 4 of chapter V.

334. The representative of Chile said that the Cuban proposal reminded him of the accusations persons had had to face in their opposition to the Pinochet dictatorship. He also noted that the proposal referred exclusively to a humanitarian spirit of human rights activities whereas they were a political issue as well. For example, on the question of torture, to defend human rights it would not suffice to limit one's concern to assisting the victims of torture but would require as well to address the State policy enabling it. With regard to paragraph (e), whereas objectivity was useful as a general principle, to refer to impartiality negated the very essence of legal defence, which precisely required of lawyers to be partial. Furthermore, he considered a reference to non-selectivity to be inappropriate in view of his own

experience when representing Chilean political prisoners and caring more about them than about all other prisoners. He expressed his grave concern at the Cuban proposal which, in his view, could cancel out everything which had been achieved by the Working Group.

335. The representative of the Syrian Arab Republic noted that the Cuban proposal merited careful study as it offered guidelines for the work of those who defended human rights, such as to consider all human rights and not to be politically guided.

336. The representative of China thanked the representative of Cuba for his serious proposal and pointed out that it contained important and indispensable principles such as the principles of national sovereignty, territorial integrity and non-interference in the internal affairs of States. The representative of China considered that those principles did not contravene the declaration and that the proposal merited consideration and support.

337. The observer for Amnesty International said that the Cuban proposal if accepted, would make the work of human rights defenders more difficult and that it resembled the very language used in criminal law to imprison persons solely for the views they expressed peacefully. The spirit of the proposal was a source of concern and he urged the Cuban delegation to reconsider it carefully and not to insist on that wording.

338. The representative of Cuba noted that the Working Group did not have broad enough representation and merited the attendance of representatives of more States Members of the United Nations. He considered that the declaration would be unbalanced if it did not contain the principles proposed by his Government. He expressed his astonishment at the responses to the Cuban proposal, which referred to very important principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the human rights Covenants and the Vienna Declaration and Programme of Action. He could see no purpose in having the declaration if those principles were not included in it.

339. After an informal consultation, the Chairman-Rapporteur concluded that the Working Group was not able to reach consensus on the inclusion of the Cuban proposal in the text of article 5. The consideration of article 5 was therefore suspended.

The issue of the removal of the chapter headings

340. At the 4th meeting, on 20 January 1994, the Chairman noted that some delegations considered that the structure of the draft declaration might imply that the limitations provisions contained in chapter V did not necessarily apply to other chapters and articles. By removing the chapters, the Chairman felt that that point was well taken care of. Consequently, it would seem unnecessary to include a number of repetitive references to limitations throughout the declaration. For that reason and also for reasons of consistency with established practice in drafting United Nations human rights documents, he proposed to remove all chapter headings from the draft declaration. A formal decision to that effect was adopted by the Working Group at its 5th meeting on 20 January 1994.

Structure of the report

341. At the 17th meeting, on 28 January 1994, the Working Group considered the question of the structure of its 1994 report to the Commission. After a short discussion it was decided that the report would be structured in the same way as the 1993 report.

Future work

342. The Chairman drew the attention of the Working Group to paragraph 2 of Commission on Human Rights resolution 1993/92, in which the Commission urged the Working Group to make every effort to complete its task and submit the draft declaration to the Commission at its fiftieth session. He also reminded the Working Group that in part II, paragraph 94 of the Vienna Declaration and Programme of Action, the World Conference on Human Rights recommended the speedy completion and adoption of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and to protect universally recognized human rights and fundamental freedoms. Taking into account the above recommendations, the Working Group was expected to complete its work and to submit the draft declaration to the Commission on Human Rights at its fifty-first session, in 1995.

Annex I

FIRST READING TEXT OF THE

DRAFT DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

AS AMENDED IN THE COURSE OF THE SECOND READING AT THE NINTH SESSION OF THE WORKING GROUP

Preamble

The General Assembly,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and stressing the paramount importance of achieving international cooperation to fulfil this obligation, according to the United Nations Charter,

Recalling the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of [universally recognized] human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system,

Reaffirming further the importance of regional human rights instruments in the international efforts to promote universal respect for and observance of human rights and fundamental freedoms,

Acknowledging the important role of international cooperation for and the valuable work of individuals, groups and associations in contributing to the effective elimination of all mass, flagrant or systematic violations of the human rights and fundamental freedoms of peoples and individuals, such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity, and from refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are indivisible and interdependent, without prejudice to the implementation of each of these rights and freedoms,

Stressing that each State has the prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international level.*

Declares:

Chapter I**

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of [universally recognized] human rights and fundamental freedoms at the national and international levels. Each State shall adopt such legislative, administrative and other steps as much as may be necessary to ensure that the rights and freedoms referred to in this declaration are effectively guaranteed. 1/

Article 2

Each State has a prime responsibility and duty to promote and protect [universally recognized] human rights and fundamental freedoms, inter alia by adopting such legislative, administrative and other steps as may be necessary to create the social and political conditions and legal guarantees required to ensure that all persons, individually and in association with others, are able to enjoy these rights and freedoms in practice.

Article 3

No one shall participate, by act or failure to act where required, in violating human rights and fundamental freedoms, and no one shall be subject to punishment or adverse action of any kind for refusing to do so. 2/

Chapter II

Article 1

Everyone has the right to know, to be informed about and to make known to others human rights and fundamental freedoms to which they are entitled. 3/

---

* The text of the Preamble was not discussed during the ninth session of the Working Group. Consequently, the text is identical to the first reading text as contained in Annex I of document E/CN.4/1993/64.

** At its 5th meeting, on 20 January, the Working Group agreed upon the deletion of the chapter headings in the final version of the declaration. However, the Working Group agreed that, for the sake of clarity, it would be convenient to retain the chapter headings until the completion of the second reading and subsequent renumbering of the articles.

Article 2

Everyone has the right, individually as well as together with others,

(a) To seek, obtain, receive and hold information about these rights and freedoms, including having full access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) To publish, impart or disseminate freely to others views, information and knowledge of [universally recognized] human rights and fundamental freedoms.

Article 3

Everyone has the right, individually and in association with others, to study, discuss and form opinions as to whether these rights and freedoms are observed, both in law and in practice, [in their own country and elsewhere, and to solicit public attention on these matters].

Article 4

Everyone has the right to develop and discuss new human rights ideas and principles, and to advocate their universal acceptance. 4/

Article 5

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights. 4/

2. Such measures shall include:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments; 4/

(b) Full and equal access to international documents in the field of human rights, including the State's periodic reports to the bodies established by the international human rights treaties to which it is a party, as well as the official report of these bodies. 4/

3. The State has the responsibility to take steps to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education, and to encourage all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials to include appropriate elements of human rights teaching in their training programmes. 4/

Chapter III

Article 1

For the purpose of promoting and protecting [universally recognized] human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations, or, where relevant, groups;

(c) To communicate with non-governmental or intergovernmental organizations.

Article 2

Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the Government of his country and in the conduct of public affairs. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work which may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms. 5/

Article 3

Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of [their] human rights and fundamental freedoms.

In this connection, persons and groups are entitled to be protected under national law in reacting against or opposing, through peaceful means, activities and acts carried out by the State, groups or persons aimed at the destruction of [their] human rights and fundamental freedoms.

Article 4

1. Everyone has the right [is entitled], individually and in association with others, to solicit, receive and utilize voluntary financial or other contributions, for the purpose of promoting and protecting, through peaceful means, [universally recognized] human rights and fundamental freedoms.

2. In this connection, all contributions, including those from foreign sources, and the use thereof, shall be subject, on a non-discriminatory basis, to the national legislation as referred to in chapter V.

Chapter IV

Article 1

In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in this declaration, everyone has the right to benefit from an effective remedy and to be protected in the event of violations of these rights. 6/

Article 2

To this end, everyone has the right, inter alia, to:

(a) Draw public attention to violations of human rights and to complain about the policies and actions of individual officials and governmental bodies by petitions or other means to competent national judicial, administrative, or legislative authorities or any other competent authority provided for by the legal system of the State, as well as to any relevant competent international bodies;

(b) Complain to and have that complaint promptly reviewed in a public hearing and decided by an independent, impartial and competent judicial or other authority established by law;

(c) Obtain a just decision and award providing redress, including any compensation due as well as enforcement of the decision and award, all without undue delay;

(d) Attend such relevant hearings or proceedings or, as the case may be, trials to assess their fairness and compliance with national and international standards;

(e) Offer and provide assistance, including professionally qualified legal assistance, in defending [universally recognized] human rights and fundamental freedoms;

(f) Unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights in accordance with applicable international instruments and procedures.

Article 3

To the same end, each State shall, inter alia:

(a) Take all necessary steps to ensure the protection by the competent authorities of everyone, individually or in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in this declaration; 7/

(b) Encourage and support, where appropriate, the creation and development of further institutions for the promotion and protection of human

rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions; 8/

(c) Conduct or ensure that a prompt and impartial investigation or inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction. 9/

Article 4

Everyone, whether individually or in groups, has the right to the lawful exercise of his occupation or profession. Everyone who, as a result of his occupation or profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national or international standards of occupational and professional conduct or ethics. 10/

Chapter V

Article 1

Nothing in the present declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations nor as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments in this field. 11/

Article 2

Domestic law consistent with the United Nations Charter and other international obligations and commitments applicable to the State in the field of human rights and fundamental freedoms, is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in this declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted. 12/

Article 3

In the exercise of the rights and freedoms referred to in this declaration, everyone, acting individually or in association with others, shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society and in accordance with applicable international obligations and commitments. 13/

Article 4

Nothing in the present declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in this declaration or at their limitations to a greater extent than is provided for in this declaration. 14/

Article 5

1. Everyone has duties towards and within the community in which alone the free and full development of his personality is possible.

2. Everyone, individually and in association with others, should have respect for the rights, freedoms, identity and human dignity of all others, and have respect for the culture of the whole community and the cultures within the community, consistent with human rights and fundamental freedoms.

3. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding and promoting democratic processes, a democratic society, democracy and human rights and fundamental freedoms. This does not imply the right to carry out programmes or to engage in any other activity aimed at the destruction of democratic processes and human rights and fundamental freedoms, including progress accomplished in these areas.

Notes

1/ Former article 3.

2/ Former article 1. Adopted on 19 January (2nd meeting).

3/ Adopted on 19 January (3rd meeting).

4/ Adopted on 20 January (5th Meeting).

5/ Adopted on 21 January (6th meeting).

6/ Adopted on 24 January (9th meeting).

7/ Both the "chapeau" and paragraph (a) adopted on 25 January (10th meeting).

8/ Adopted on 25 January (11th meeting).

9/ Adopted on 28 January (16th meeting).

10/ Adopted on 28 January (17th meeting).

11/ Adopted on 26 January (12th meeting).

12/ Adopted on 26 January (13th meeting).

13/ Adopted on 26 January (13th meeting).

14/ Adopted on 27 January (14th meeting).

Annex II

COMPILATION OF SECOND READING PROPOSALS PRESENTED DURING THE NINTH SESSION OF THE WORKING GROUP

CRP.1 - Chairman-Rapporteur

Old chapter I, article 1

No one shall participate, by act or omission, in violating the human rights and fundamental freedoms, and no one shall be subject to punishment or adverse action of any kind for refusing to do so.

CRP.2 - Chairman-Rapporteur

Old chapter II, article 2

Everyone has the right, individually as well as together with others,

(a) To seek, obtain, receive and hold information about these rights and freedoms, including having full access to information as to how these rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) To publish, impart or disseminate freely to others views, information and knowledge of human rights and fundamental freedoms.

CRP.3 - Delegation of China

Old chapter II, article 2

(b) To publish, impart or disseminate to others views, information and knowledge of human rights and fundamental freedoms under guidance of applicable international instruments.

CRP.4 - Observer for International Commission of Jurists

Chapter IV, article 2

IV. 2 (e)

Add at the end:

" , at the national and international levels."

IV. 2 (f)

Insert [Begin with]:

"Have" ("Have unhindered access...")

IV. 2 (g) (NEW)

Have reasonable access to, and reasonable opportunities to examine, and to obtain or copy, the written decisions or reports of the bodies and authorities referred to in sub-articles (a) and (b) above.

IV. 2 bis (NEW)

Everyone has the right to attend as an international observer public court hearings and trials in any country to assess their fairness and compliance with international standards. It is affirmed that such hearings and trials are required to be public, and may be held in camera only in circumstances prescribed by law and consistent with obligations contained in international human rights instruments.

CRP.5 - Chairman-Rapporteur

Chapter IV, article 3

(b) Encourage and support, as appropriate, the creation and development of further institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institutions.

CRP.6 - Observer for Amnesty International

Chapter V, article 5

Paragraph 3

Add at the end:

"No such programmes or activities aimed at securing acknowledgement of and accountability for past human rights violations shall be considered as being aimed at the destruction of democratic processes and human rights and fundamental freedoms."

CRP.7 - Delegation of Cuba

Chapter V, article 1

Retain the phrase appearing between brackets.

Chapter V, article 5

Add a new paragraph 4, reading as follows:

"4. To this end everyone has a duty, inter alia:

(a) To refrain from using the promotion and protection of human rights for political purposes extraneous to the humanitarian essence of those activities;

(b) To refrain from encouraging or participating in activities detrimental to the principle of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of States or contrary to the security and stability of the country in which he lives;

(c) To refrain from acts contrary to the right of the people to which he belongs to achieve full self-determination and freely to exercise such self-determination to determine its political status and economic, social and cultural development;

(d) To refrain from any kind of propaganda for war or advocacy of national, racial or any other hatred which constitutes incitement to discrimination, hostility or violence;

(e) To observe the principles of objectivity, impartiality and non-selectivity in carrying out such activities;

(f) To refrain from manipulating information and events with the aim of defaming or damaging the image of other persons and institutions, thereby encouraging smear campaigns;

(g) To refrain from using the promotion of human rights as a way of covering up activities inconsistent with the purpose and principles of the United Nations."

CRP.8 - Observer for the International Commission of Jurists

Chapter V, article 5

Paragraph 3

1. Insert "States" at the beginning:

"States, individuals, groups,..."

2. After "organizations have"

(a) Remove "an";

(b) Add "s" to "role";

(c) Remove "a" before "responsibility";

(d) Change "responsibility" to "responsibilities".

It would read: "organizations have important roles to play and responsibilities..."

3. Remove "a democratic society,".

4. Remove "other" before "activity".

5. Remove "including progress accomplished in these areas".